

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PERRY ALLEN AUSTIN, §
§
Petitioner, §
§
-VS § **NO.** **04-CV-2387**
§
NATHANIEL QUATERMAN, Director, §
Texas Department of Criminal Justice, §
Institutional Division, §
§
Respondent. §

UNOPPOSED MOTION TO FREEZE BRIEFING SCHEDULE

Petitioner, Perry Allen Austin, moves pursuant to the First, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Rule 45, Fed. R. Civ. P. 45 to freeze the briefing schedule in this case pending resolution of the issues arising from Respondent's copying of Petitioner's personal mail.

- 1) Petitioner has moved¹ to quash an improperly issued subpoena that caused Warden Massey, Polunsky Unit to copy Petitioner's personal correspondence and furnish it directly to the Attorney General's office.
- 2) Petitioner has moved to be provided with a copy of all seized material and an opportunity to seek such further relief as may be necessary. Such relief may include recusal of the Assistant Attorney General serving as counsel for Respondent if she is found to have improperly had access to private information to the prejudice of Petitioner.

¹ Petitioner incorporates by reference all factual and legal claims made in his motion to quash subpoena in support of

- 3) Petitioner has also moved to prohibit the conduct of the administrative program that has been instituted by Respondent in response to Petitioner's habeas petition to copy all of Petitioner's personal correspondence.² Counsel intends to seek an evidentiary hearing in respect of this motion.
- 4) Pending resolution of these very important issues Petitioner moves that the briefing schedule should be frozen and Respondent is not opposed.

Conferencing Statement

- 5) On May 10, 2007 and in following days, undersigned counsel corresponded by email with counsel for Respondent who advised that the motion to quash the subpoena and other motions for relief were opposed save for the motion to freeze the briefing schedule in this case until these matters are submitted and ruled upon. Counsel for Respondent has indicated that she does not oppose the motion to freeze the briefing schedule.

Respectfully submitted,

/s/ Richard Bourke
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Counsel for Perry Austin

CERTIFICATE OF SERVICE

his current motion.

² Petitioner incorporates by reference all factual and legal claims made in his *Motion Prohibiting Copying And Distribution Of Petitioner's Personal Correspondence In Response To Petitioner's Habeas Petition* in support of his current motion.

I hereby certify that on the 21st day of May 2007, I served a true and correct copy of the foregoing pleading by electronic mail from the clerk of court for delivery on opposing counsel:

Georgette Oden
Assistant Attorney General
Office of the Attorney General
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/s/ Richard Bourke